

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2114  
(Agriculture Committee)  
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact subsection 9 of section 4-30-01 and sections 4-30-02, 4-30-18, 4-30-20, 4-30-36, 4-30-36.2, 4-30-36.3, and 4-30-36.4 of the North Dakota Century Code, relating to dairy regulations, reinspection fees, and references to current food and drug administration regulations.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 9 of section 4-30-01 of the North Dakota Century Code is amended and reenacted as follows:

9. "Distributor" means a person ~~who purchases milk or milk products and transports them to a retail dealer or a consumer or company that provides storage, transportation, delivery, or distribution of milk and milk products to any person who offers for sale or sells to any consumer milk or milk products.~~

**SECTION 2. AMENDMENT.** Section 4-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**4-30-02. Licenses required - Fees - Term.** Every producer-processor, peddler, distributor, every person purchasing milk or milk products for processing or manufacturing, or owning, operating, or leasing a creamery, cheese factory, condensery, drying plant, ice cream plant, ice milk plant, milk plant, every other business engaged in the processing or manufacturing of milk or milk products and every organization acquiring milk or milk products as an agent for sale on behalf of others and doing business within this state shall obtain the license required by this section for each such place of business. Application for license must be made to the commissioner upon forms as the commissioner may require. Upon making application for license, it is implied that consent is given by the applicant for inspection by the department. If the commissioner finds that the applicant conforms to the North Dakota laws and the rules and regulations of the department, the commissioner shall issue a license for conducting those operations listed on the application form. If a licensee wishes to conduct operations other than those listed, the licensee may request that the commissioner approve them, and if the commissioner finds that the proposals are in conformance with North Dakota laws and the rules of the department, the commissioner shall approve them. The license must be posted conspicuously in each licensed business. All licenses issued under this section must expire on the thirtieth day of June of each year and are not transferable. The fee for licenses is twenty-five dollars. Every organization acquiring milk or milk products as an agent for sale on behalf of others is, for the purposes of this chapter, deemed to be a purchaser of milk from a dairy producer. A reinspection fee of seventy-five dollars per inspection must be paid by each dairy farm facility for which the commissioner has conducted a reinspection resulting from suspension of a farm permit, degrade of a farm facility from grade A to manufacturing grade, or unsanitary conditions that must be corrected within a specified period of time.

**SECTION 3. AMENDMENT.** Section 4-30-18 of the North Dakota Century Code is amended and reenacted as follows:

**4-30-18. Sampling and testing procedures - Equipment - Supplies.** The laboratory procedures, equipment, chemicals, and other apparatus or substances used in the sampling, hauling, or testing of milk or milk products must conform to that described in the ~~sixteenth~~ seventeenth edition of "Standard Methods for the Examination of Dairy Products" published by the American public health

association, incorporated, a copy of which shall be on file in the department. No equipment, chemicals, or other apparatus or substance used in the sampling, hauling, or testing of milk or milk products which is not in conformance with the requirements of this chapter may be sold or offered for sale. The commissioner through the adoption of rules may alter, amend, or prohibit any specific requirement of this section and may approve other sampling, hauling, or testing procedures or equipment. The commissioner, where appropriate, may check calibration of farm bulk milk tanks and equipment.

**SECTION 4. AMENDMENT.** Section 4-30-20 of the North Dakota Century Code is amended and reenacted as follows:

**4-30-20. Sampling of milk.** Every purchaser of milk from a dairy producer shall collect a minimum sample of two ounces [59.15 milliliters] from each bulk tank of milk received from a producer. Samples must be collected and maintained in accordance with those procedures contained in the ~~sixteenth~~ seventeenth edition of "Standard Methods for the Examination of Dairy Products" published by the American public health association, incorporated. Records must be kept which readily identify the sample with those items used to determine payment for the milk. Such items must include: weight, butterfat content, protein, solids-not-fat, and the total amount of money paid for the milk.

**SECTION 5. AMENDMENT.** Section 4-30-36 of the North Dakota Century Code is amended and reenacted as follows:

**4-30-36. Standards for grade A milk and milk products - Adoption of amendments.** Only grade A milk may be sold as fluid beverage for human consumption. The minimum standards for milk and milk products designated as grade A are the same as the minimum requirements of the "Grade A Pasteurized Milk Ordinance, ~~2004~~ 2003 Revision, Public Health Service, Food and Drug Administration, ~~Publication No. 229~~" including "~~Grade 'A' Condensed and Dry Milk Ordinance 1995 Revision, Grade A Condensed and Dry Milk Products and Condensed and Dry Whey Supplement 1~~" and all supplements added thereto except that the minimum requirements for solids not fat in all grade A milk is eight and one-half percent and the butterfat content of grade A whole milk is three and ~~one-fourth~~ percent which includes provisions from the "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey - Supplement 1 to the Grade A PMO" and all supplements added thereto. The commissioner may adopt as department regulations other standards in addition to any amendments, supplements to, or new editions of the milk ordinance which are in the interest of public safety, wholesomeness of product, consumer interest, sanitation, good supply, salability, and promotion of grade A milk and milk products.

**SECTION 6. AMENDMENT.** Section 4-30-36.2 of the North Dakota Century Code is amended and reenacted as follows:

**4-30-36.2. State milk sanitation rating and sampling surveillance officer - Duties - Guidelines.** The state milk sanitation rating and sampling surveillance officer is responsible for the rating and certification of milk and dairy products. The rating and certification of milk and dairy products must be in accordance with the procedures outlined in the public health service/food and drug administration publication entitled "Methods of Making Sanitation Ratings of Milk Shippers - ~~2004~~ 2003 Revision, Edition" and the sampling of milk and dairy products must be in accordance with the guidelines recommended in the ~~sixteenth~~ seventeenth edition of "Standard Methods for the Examination of Dairy Products" published by the American public health association.

**SECTION 7. AMENDMENT.** Section 4-30-36.3 of the North Dakota Century Code is amended and reenacted as follows:

**4-30-36.3. Milk laboratory evaluations officer - Duties - Guidelines.** The milk laboratory evaluations officer is responsible for the certification and evaluation of milk and dairy products laboratories within the state. Evaluations and certification of milk laboratories must be made in accordance with the ~~sixteenth~~ seventeenth edition of "Standard Methods for the Examination of Dairy Products" published by the American public health association and the procedures outlined in the public health service/food and drug administration publication entitled "Evaluation of Milk Laboratories - 1995 Edition".

**SECTION 8. AMENDMENT.** Section 4-30-36.4 of the North Dakota Century Code is amended and reenacted as follows:

**4-30-36.4. Grade A pasteurized milk ordinance.** Dairy producers, processors, and manufacturers shall comply with the "Grade A Pasteurized Milk Ordinance, ~~2004~~ 2003 Revision, Public Health Service, Food and Drug Administration, ~~Publication No. 229~~" and its supplements and follow the standards set by the "Procedures Governing the Cooperative State-Public Health Service Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, ~~2004~~ 2003 Revision".

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2114.

Senate Vote:    Yeas    46        Nays    1        Absent    0

House Vote:    Yeas    70        Nays    19       Absent    5

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State